

REMARKS

Applicant respectfully requests entry and consideration of the above amendments even though presented after a final rejection. Applicant submits that the amendments do not raise new issues or require a new search. Further, entry and consideration of the amendments may isolate issues for potential allowance or appeal.

Overview

Claims 6, 7, 9, 10, 16, 17, 19, 20, 27, 28-31 and 37-41 remain in this application. Favorable reconsideration and allowance of the remaining claims are respectfully requested.

Claims 6, 16, 27 and 37 are independent claims.

Applicant has amended claims 7, 10, 17, 20, 28, 29, 31, 38, 39 and 41 to correct informalities. No new matter has been added.

Applicant has cancelled claims 1-5, 8, 11-15, 18, 21-26 and 32-36 rendering many of these rejections moot. Specifically, in this Amendment, Applicant has cancelled claims 1-5, 8, 11-15, 18, 21-26 and 32-36 from further consideration in the Patent Application. Applicant is not conceding that the subject matter encompassed by the claims 1-5, 8, 11-15, 18, 21-26 and 32-36 is not patentable. Claims 1-5, 8, 11-15, 18, 21-26 and 32-36 were cancelled in this Amendment solely to facilitate expeditious prosecution of the remaining claims. Applicant respectfully reserves the right to pursue additional claims, including the subject matter encompassed by claims 1-5, 8, 11-15, 18, 21-26 and 32-36, as presented prior to this Amendment in one or more continuing applications.

35 U.S.C. § 103

At page 2, paragraph 2 claims 7, 9, 10, 17, 19, 20, 28-31 and 37-41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dyszel (Handspring Visor for Dummies) in view of U.S. Patent 7,254,782 (Sherer) and Microsoft Windows Version 5.1 (hereinafter "Windows"). At page 14, paragraph 3 claims 6, 16 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dyszel and Windows. Applicant

respectfully traverses these rejections, and requests reconsideration and withdrawal of the obviousness rejections.

“Both anticipation under § 102 and obviousness under § 103 are two-step inquiries. The first step in both analyses is a proper construction of the claims. ... The second step in the analysis requires a comparison of the properly construed claim to the prior art.” During patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification,” and the broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. Therefore, the Examiner must (i) identify the individual elements of the claims and **properly construe** these individual elements, and (ii) identify corresponding elements disclosed in the allegedly anticipating reference and compare these allegedly corresponding elements to the **properly construed** individual elements of the claims. This burden has not been met.

Applicant respectfully submits that the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 6, 7, 9, 10, 16, 17, 19, 20, 27, 28-31 and 37-41. Therefore these claims define over the cited references whether taken alone or in combination. For example, claim 6 recites the following language, in relevant part:

displaying a weekly view graphical image on a display screen, said display screen is switchable between a small display mode which is substantially square in shape and a tall display mode which is substantially rectangular in shape using a sliding mechanism....

According to the Office Action, the Examiner construes “sliding mechanism” to read on “selecting a corner of the display in Screenshot 5 and sliding it.” Applicant respectfully submits that the Examiner performs an improper claim construction for these features.

The Examiner has not properly construed the claim language “sliding mechanism” consistent with the Specification. During patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” In re ICON Health and Fitness, Inc., 496 F.3d 1374, 1379 (Fed. Cir.

2007). As stated in the specification, “[e]mbodiments which are implemented...in handheld devices that slide open or unfold to present the extended screen area...” Specification, Page 5, Lines 18-21. Further, with respect to FIGS 3A, 3B, the Specification states that “the ensuing example of a graphical user interface interaction can follow that of a square screen implementation until the device is slid to the open position.” Specification, Page 21, Lines 3-9. Further, FIGS. 3A, 3B show a device 300 “implemented in a folding or telescoping form factor.” The Specification further states that “line 310 illustrates a dividing line between upper body portion 311 and lower body portion 312 which is shown slid over touch-screen display 301, thus showing only the uppermost portion of the display.” Specification, Page 17, Lines 7-14. Thus, it is clear from FIGS. 3A, 3B and accompanying description that the term “sliding mechanism” refers to a physical or mechanical sliding mechanism. However, the Examiner improperly construes “sliding mechanism” to read on a software graphical user interface (GUI) control feature of “selecting a corner of the display in Screenshot 5 and sliding it.” A software GUI control feature is not a physical or mechanical sliding mechanism. This term is not disclosed by the cited references in any context.

Consequently, the cited references fail to disclose all the elements or features of the claimed subject matter of claim 6. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claim 6. Furthermore, Applicant respectfully requests withdrawal of the obviousness rejections with respect to claims 7, 9, 10, 16, 17, 19, 20, 27 and 28-31, which contain similar features, as well as additional features that further distinguish these claims from the cited references.

With respect to claims 37-41, these claims recite, either directly or indirectly, the term “folding mechanism.” Similar to the Examiner’s improper claim interpretation of the term “sliding mechanism,” the Examiner improperly construes the term “folding mechanism” to read on “expanding or collapsing the divider.” Office Action, Page 12. As stated in the specification, “[e]mbodiments which are implemented...in handheld devices that slide open or unfold to present the extended screen area...” Specification, Page 5, Lines 18-21. Therefore, the term “folding mechanism” refers to a physical or mechanical folding mechanism. Again, the Examiner improperly construes “folding

mechanism” to read on a software GUI control feature of “expanding or collapsing the divider.” A software GUI control feature is not a physical or mechanical folding mechanism. This term is not disclosed by the cited references in any context.

Consequently, the cited references fail to disclose all the elements or features of the claimed subject matter of claim 37. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claim 37. Furthermore, Applicant respectfully requests withdrawal of the obviousness rejections with respect to claims 38-41, which contain similar features, as well as additional features that further distinguish these claims from the cited references.

Conclusion

For at least the above reasons, Applicant submits that claims 6, 7, 9, 10, 16, 17, 19, 20, 27, 28-31 and 37-41 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 6, 7, 9, 10, 16, 17, 19, 20, 27, 28-31 and 37-41 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

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John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

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